



BAILIFFS - CREDIT DEBTS

Many people are understandably worried that bailiffs might come and remove goods from their home if they can't pay a debt. It is important to know that you have rights and that there are strict guidelines laying down what bailiffs can do and when.

Bailiff Action for Credit Debts

"Credit Debts" include things like loans from banks or other lenders, credit cards, credit taken out to buy a car or furniture, etc, and catalogue debts.

Many letters from collection agencies mention bailiffs but, if you read them carefully, you often find that they are telling you what might happen if you do not contact them and if they get a county court judgment and if you then don't pay.

NO BAILIFF ACTION CAN BE TAKEN UNLESS:

a county court judgment (CCJ) has been made against you

AND

you have failed to pay as ordered or have made a 'nil' offer of payment when replying to a county court claim.

Where both of these are true, creditors can apply to the court for a "warrant of execution", which means they are asking the court for the account to be passed to the county court bailiffs (not private bailiffs) for collection.

If you have received "notice of issue of a warrant of execution", you need to ask for the suspension of the warrant using a Form N245, which you can get from the county court. There is a court fee payable, however, if you receive Income Support, Income Based Jobseekers Allowance, Income Related ESA, Pension Credit or are on a low income you can ask for Form EX160 to apply for remission of the court fee so that you do not have to pay it. See the notes form EX160a for full details of how to apply and what proof you need.

If you can't afford to pay to your creditor the amount you are supposed to, you can ask the court to reduce your payment using the same form N245. Please see FT11 for more information.

If you have any problems, seek further advice.

You can download these court forms from the Courts Service website:

<http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.doc>

See next page for more information about bailiff action.

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Rights of Entry for Bailiffs

- County court bailiffs do not have the right to forcibly enter your home unless they already have a "levy" on your goods (see below).
- Please note - if a door is unlocked or a window is left open and bailiffs get in without forcible entry, you cannot stop them taking a levy and/or removing goods.
- Bailiffs are able to take a levy and/or remove goods that are outside or in an unlocked garage/shed (e.g. a car or garden tools).
- The police can only be involved if the bailiffs feel that a breach of the peace may occur. Any police role would only be to prevent a breach of the peace and the police cannot assist the bailiffs in forcing entry or seizing goods.

What is a "Levy"?

If bailiffs are allowed into your property, they can make a list of 'non-essential' goods that they think will be sufficient to be sold at auction to clear your debt. This is called "taking a levy".

Once bailiffs have taken a levy, you lose the right to refuse them entry over the debt for which the levy was taken. So they can return to remove the goods which have been levied for sale at auction and if necessary force entry to do so.

You are not allowed to sell or dispose of goods on which a levy has been placed.

IMPORTANT:

Bailiff action is a complex area of law. The information given above is only a summary and you should obtain further advice if you are in any doubt about your rights.